

SECOND READING

ORDINANCE NO. 2008-3619

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 18 OF THE MIAMI BEACH CITY CODE ENTITLED "BUSINESSES," BY AMENDING ARTICLE XV THEREOF, ENTITLED "STREET PERFORMERS AND ART VENDORS ON LINCOLN ROAD AND OCEAN DRIVE," BY AMENDING SECTION 18-901 ENTITLED "DEFINITIONS"; BY AMENDING SECTION 18-902, ENTITLED "INTENT OF ARTICLE," TO ADD COLLINS AVENUE, WASHINGTON AVENUE AND THE CITY'S BEACHWALKS TO THE LIST OF LOCATIONS WHERE THE PROVISIONS OF ARTICLE XV APPLY; BY CREATING SECTION 18-903, TO BE ENTITLED "ARTIST VENDOR CERTIFICATE REQUIRED," TO PROVIDE APPLICATION REQUIREMENTS, PROCEDURES, FEES, AND REGULATIONS FOR ARTIST VENDOR CERTIFICATES FOR ALL ARTIST VENDORS IN THE CITY AND AMENDING AND RENUMBERING SECTIONS 18-903 THROUGH 18-911 ACCORDINGLY; BY AMENDING SECTION 18-904, ENTITLED "PERMIT APPLICATION," TO INCLUDE COLLINS AVENUE, WASHINGTON AVENUE, AND THE CITY'S BEACHWALKS AS LOCATIONS IN THE CITY WHERE PERMITS ARE REQUIRED AND AMENDING PERMIT REQUIREMENTS; BY AMENDING SECTION 18-905, ENTITLED "PERMIT REGULATIONS AND PROHIBITIONS," TO AMEND THE PROVISIONS RELATIVE TO ZONE LOCATIONS AND THE REGULATIONS RELATIVE TO ARTIST VENDORS AND STREET PERFORMERS; BY AMENDING SECTION 18-908, ENTITLED "DISCLAIMER, DISPLAY AND EXPIRATION," TO AMEND THE PROVISIONS RELATIVE TO ARTIST VENDOR CERTIFICATES AND PERMITS; BY AMENDING SECTION 18-909, ENTITLED "ENFORCEMENT, SUSPENSION/REVOCATION OF PERMIT," BY AMENDING THE FINES AND PENALTIES FOR ARTIST VENDOR PERMIT AND CERTIFICATE HOLDERS; BY CREATING SECTION 18-912, TO BE ENTITLED "NO PERMIT OR CERTIFICATE; PENALTY," TO PROVIDE PENALTIES FOR ARTIST VENDORS AND STREET PERFORMERS WITHOUT A PERMIT OR CERTIFICATE; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, on April 11, 2007 and December 12, 2007, the City Commission approved certain regulations for Artist Vending and Street Performances in the City of Miami Beach in an effort to address public safety concerns resulting from artist vending and street performances on Lincoln Road and portions of Ocean Drive; and

WHEREAS, artist vending and street performances in areas other than Lincoln Road and Ocean Drive have increased in number and frequency since December 2007, resulting in increased enforcement to ensure that public safety is not compromised by artist vendors and street performers; and

WHEREAS, art for sale, or for consideration, that is created by an artist vendor is a constitutionally protected activity, but the resale of arts and crafts not created by the artist vendor is not a constitutionally protected activity and the sale of these products is prohibited in the public rights-of-ways; and

WHEREAS, the proliferation and concentration of artist vendors and street performers in certain other areas of the City, with a myriad of different, random and conflicting displays, have created visual blight in areas of the City frequented by high volumes of residents and visitors; and

WHEREAS, developing standard display requirements for all artist vendors will assist in providing a better experience for residents and visitors; and

WHEREAS, developing a process to ensure that artist vendors are vending only art they have created will eliminate prohibited commercial vending, and the visual blight associated therewith, in the City's public rights-of-ways.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1. That Miami Beach City Code Chapter 18 entitled "Businesses," Article XV thereof entitled "Street Performers and Art Vendors," is hereby amended to read as follows:

CHAPTER 18

BUSINESSES

* * *

ARTICLE XV. STREET PERFORMERS AND ART VENDORS

Sec. 18-901. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Art means painting, photography, sculpting, sketching and crafts. Art, as herein defined, shall not be construed to permit the display or sale of any item intended or suitable for human consumption.

Artist vending and street performance artist zone is defined as a sidewalk area which has been selected and identified by the city manager or designee as the specific artist vendor/street performance artist area at which all artist vending/street performance art in the Lincoln Road area, and all artist vending/street performance art from or using a portable table in the Ocean Drive, Collins Avenue, Washington Avenue and the City's beachwalk-areas shall occur by a specific permittee.

Artist means one who engages in an activity defined to be art by this article.

Beachwalk area, as used herein, shall mean the public pedestrian pathway located adjacent to the City's beachfront or bayfront, and as may also be referred to as the beachwalk, beachway, baywalk or boardwalk.

Collins Avenue area is defined for purposes of this section as all public rights-of-way within that area bounded on the east by Ocean Court (the alley between Ocean Drive and Collins Avenue) or the ocean; on the west by Collins Court (the alley between Collins Avenue and Washington Avenue) or 200' west from the centerline of Collins Avenue; on the south by South Pointe Drive; and on the north by 24th street.

Lincoln Road area is defined as all public rights-of-way within that area bounded on the east by the west side of Washington Avenue, on the west side by the east side of Alton Road and on the north by the south side of Lincoln Lane North and the south by the north side of Lincoln Lane South.

Ocean Drive area is defined as all public rights-of-way on Ocean Drive within that area bounded on the south by South Pointe Drive; on the north by 15th Street; on the west by Ocean Court (the alley between Ocean Drive and Collins Avenue); and on the east by the ocean.

Offense means either an uncontested notice of violation issued by a code compliance officer or a finding of violation by a special master.

Permittee means a person who has obtained a permit pursuant to this article.

Review Committee is the Fine Arts Board, or such other City advisory committee or board as the City may identify, whose purpose is to review all artist vendor certificate applications to determine conformity with this Article.

Right-of-way is defined as land dedicated, deeded, used or to be used for a street, alley, walkway, boulevard, drainage facility, access for ingress or egress, or other purpose by the public, certain designated individuals of governing bodies.

Street, as used herein includes any primary access way such as a street, road, lane, highway, avenue, boulevard, or cul-de-sac and also includes all of the land lying between the right-of-way lines as delineated on a plat showing such streets, whether improved or unimproved.

Street-end means the intersection between a street or avenue and another street or avenue, where one street or avenue is a dead end.

Street performance includes the following activities: acting, singing, playing musical instruments, pantomime, juggling, magic, dancing, and puppetry on public property.

Street performance artists means persons who engage in street performance activities to offer entertainment or special demonstrations (often outlandish or unique) for those around them, often standing in areas accessible to pedestrians and public rights-of-way.

Street vending of art or artist vending, as used herein, includes the display, creation and/or sale on public property of art by a permittee. Street vending of art shall be limited to art created by the permittee.

Washington Avenue is defined by all public rights-of-way bounded on the east by Collins Court (the alley between Collins Avenue and Washington Avenue) or 200' east of the centerline of Washington Avenue; on the west measured 200' from the centerline of Washington Avenue; on the south by South Pointe Drive; and on the north by Dade Boulevard.

Sec. 18-902. Intent of article.

The intent of this article is to regulate street performances and artist vending protected by the First Amendment to the United States Constitution on the public rights-of-way in the City of Miami Beach.

Sec. 18-903. Artist Vendor Certificate required.

It shall be unlawful for any person to engage in artist vending in the City of Miami Beach without first obtaining an Artist Vendor Certificate.

- (1) Application. Each person desiring certification as an artist vendor pursuant to this ordinance shall file an application with the city's business tax receipt office or any such other office as may be designated by the city manager.
 - a. Only those artist vendor certification applications on city forms will be accepted.
 - b. Except as otherwise provided herein, said artist vendor certification application shall specify:
 - i. The artist vendor certificate applicant's name, resident address, place of employment where the work of art is produced, a phone number, electronic mail (e-mail) address or mailing address of the artist vendor certificate applicant or of a person through whom the certificate applicant may always be reached.
 - ii. A description of the art or craft item for which the applicant seeks certification.
 - iii. A declaration under penalty of perjury that the art for which the applicant seeks certification is of his or her own creation, and that the applicant neither employs other persons to produce, nor is employed by another person to produce, the art item for which he/she seeks certification.

- iv. The artist vendor shall provide a copy of their State of Florida Sales and Use Tax Certificate, including the sales tax identification number. Notification from the State of Florida Department of Revenue that the applicable sales tax has not been paid shall constitute a violation of this article and be subject to the fines and penalties set forth in Section 18-910.
 - c. The city may charge a non-refundable artist vendor certificate application processing fee in an amount set forth administratively.
- (2) Examination of application. Upon receipt of an artist vendor certificate application filed pursuant to this ordinance, the city's business tax receipt office shall coordinate the authentication process of the artist vendor certificate application by the review committee.
 - a. The business tax receipt office shall determine a date for the review committee to consider the artist vendor certificate application, and shall notify the artist vendor certificate applicant of said date. Such date shall occur no later than sixty (60) days after artist vendor certificate application.
 - b. In consideration of the artist vendor certificate application, and consistent with the administrative rules for review of artist vendor certificate applications, the review committee shall:
 - i. Examine representative samples of the applicant's work for the purposes of verifying the information set forth in the artist vendor certificate application, and/or observe the artist vendor certificate applicant in the production of the art for which they seek a certification
 - ii. After such an authentication process, and for the purposes of further investigation, the Artist Vendor Certificate review committee may: 1) designate one or more of its members to visit the studio or workshop of the applicant to view the applicant's facilities and to further verify that the art or craft item for which the applicant seeks certification of his own creation; and 2) request further documentation from the artist vendor certificate applicant, including but not limited to receipts or other proof of purchase of arts or crafts or other supplies or raw materials used in creating or producing the art for which the applicant seeks a certification.
- (3) Issuance of artist vendor certificate. If the artist vendor certificate applicant's authentication process is satisfactory, no deception was used to obtain the certificate, the applicant agrees to abide by the terms of this article, and the artist vendor certificate fee is paid, the business tax receipt office shall issue an artist vendor certificate to the applicant, duly signed, and shall show therein that the person named therein satisfied the authentication process and is entitled to engage in the display and sale of the specific art or craft item set forth in said certificate in accordance with the provisions of this ordinance, unless the applicant's artist

vendor certificate has previously been revoked or suspended or the applicant has evidenced a failure to conform to the rules and requirements herein.

- a. The applicant shall be notified by the business tax receipt office regarding the decision on the issuance or denial of the artist vendor certificate. If the artist vendor certificate is denied, the applicant shall be provided with a statement of the reasons for denial. A denial may be appealed to the city manager or his designee within ten days of the issuance of the denial. Appeals from a decision of the city manager or the manager's designee shall be to the appellate division of the circuit court in accordance with the Florida Rules of Appellate Procedure.
- b. Disclaimer. On each artist vendor certificate the following words shall appear: The issuance of this permit does not constitute an endorsement by City of Miami Beach of articles sold pursuant to the terms of this certificate.
- c. Transfer. Artist vendor certificates are non-transferable.
- d. Display. The artist vendor certificate shall contain the name of the artist vendor, a photograph of the artist vendor, a listing of the types of art for which the artist vendor certificate has been issued, and any other information that the City may determine should be placed on the artist vendor certificate. The artist vendor must prominently display the artist vendor certificate at all times.
- e. The term of the Artist vendor certificates shall be for no less than one quarter (three months). All artist vendor certificates shall expire on September 30 of each calendar year.
- f. An artist vendor certificate fee shall be as follows, and shall be paid prior to the issuance of an approved artist vendor certificate:
 - i. For a three-month certificate: \$25.00
 - ii. For a six-month certificate: \$47.50
 - iii. For a nine-month certificate: \$67.50
 - iv. For a one-year certificate: \$85.00
 - v. An artist vendor certificate shall be renewable on a quarterly or an annual basis. However, such renewal application may be subject to provisions contained in Section 18-903 (2).
- g. Notwithstanding Section 18-903 (3) (e), and as provided for in the administrative rules for artist vendor certificates, failure to pay an artist vendor certificate fee within ten (10) business days of the expiration of a certificate, resulting in a non-renewal of an artist vendor certificate, shall require the artist vendor to submit a new application for an artist vendor

certificate. The artist vendor shall pay the applicable artist vendor certificate application fee and will be subject to provisions contained in Section 18-903 (2).

- h. Artist vendor certificate holders are subject to the enforcement, suspension/revocation provisions as set forth in Section 18-910.

(4) In addition to the foregoing, the city manager or designee shall develop and impose administrative rules pertaining to artist vendor certificates. All certificate holders shall comply with the administrative rules; failure to do so shall result in the application of fines and penalties as described in section 18-910 of this article.

Sec. 18-904. Permit required.

It shall be unlawful for any person to engage in any street performance or artist vending on public property in the Lincoln Road area or to engage in any street performance or artistic vending from or using a portable table on Ocean Drive, Collins Avenue, Washington Avenue or the City's beachwalks without first obtaining a permit as required by this article. This section does not alter or interfere with the applicability and/or enforcement of any other provisions of this Code, including but not limited to, sections 70-4, 70-41, 74-1, 82-1, 142-874(a), and 142-1361 concerning vending and peddling.

Sec. 18-905. Permit application.

No artist vending or street performance on Lincoln Road or artist vending or street performance from or using a portable table on Ocean Drive, Collins Avenue, Washington Avenue or the City's beachwalks shall be allowed unless specifically authorized by a permit. Applications for a street performance artist or artist vending permit shall be made at the city business tax office, and shall be subject to the review and approval of that office, or such other office designated by the city manager for such purposes.

(1) Only those permit applications on city forms will be accepted. If the permit application form is complete and consistent with this article, the applicant agrees to abide by the terms of this article, and the application fee is paid, the application will be approved, unless the applicant's permit has previously been revoked or suspended, and the applicant has evidenced a failure to conform to the rules and requirements herein.

(2) An applicant for an artist vendor permit must have a valid artist vendor certificate to be eligible to apply for a permit and only art for which the permit applicant has received an artist vendor certificate may be sold in conjunction with an issued permit.

(3) The permit application shall be submitted to the city business tax office as follows:

- a. For first time artist vendor permit applicants, not later than 45 days prior to the date of the lottery date for the permit period; or
- b. For street performance artist applicants and applications by a previous artist vendor applicant for the same art, not later than 30 days prior to the lottery date for the permit period.

(4) Not later than 30 days after the filing of a completed, first-time application for an artist vending permit, or not later than 15 days after the filing of a completed application for street performance artist or a completed, subsequent application by an artist vendor for the same art, the applicant shall be notified by the finance department regarding the decision on the issuance or denial of the permit, or eligibility for a permit in the event a lottery is held pursuant to subsection (8) herein. If the permit is denied, the applicant shall be provided with a statement of the reasons for denial. A denial may be appealed to the city manager or his designee within ten days of the issuance of the denial. Appeals from a decision of the city manager or the manager's designee shall be to the appellate division of the circuit court in accordance with the Florida Rules of Appellate Procedure.

(5) Permits are nontransferable.

(6) The permit shall be effective for a maximum of three months from the date of its issuance.

(7) The city may charge an application processing fee in an amount set forth administratively.

(8) Applications for artist vendor and street performer permits for Lincoln Road, Ocean Drive, Collins Avenue, Washington Avenue and the City's beachwalks shall be selected by a quarterly lottery conducted by the city's business tax office as set forth in subsection 18-906 (1).

a. Each artist vendor and street performance artist shall be limited to one zone location and may not hold a permit for more than one permit zone simultaneously.

b. Lotteries will be held by the business tax office approximately 15 days prior to the start of each calendar quarter (January, April, July and October).

c. The business tax office shall implement a procedure for the reassignment of any permits voluntarily surrendered or involuntarily suspended or revoked.

Sec. 18-906. Regulations and prohibitions.

Street performances and artist vending shall be conducted in accordance with the following rules and requirements:

(1) Permitted artist vending and street performances on Lincoln Road, and artist vending and street performances from a portable table on Ocean Drive, Collins Avenue, Washington Avenue and the City's beachwalks shall only be conducted in designated zones.

a. Zone locations will be determined prior to the permit period. The zone location list shall be available for review at the business tax office ten business days prior to the permit period. Zone locations shall be assigned randomly via lottery. A separate lottery will be conducted for artist vendors and for street performers. Applicants for artist vending or street performer permits shall, in the order they are selected in the lottery, select their preferred artist vending or street performer zone. Artist Vendors and Street Performers must be present at the lottery in order to select an available Artist Vendor or Street Performer zone. Artist Vendors and

Street Performers not present at the time of the lottery shall be randomly assigned a remaining zone via a subsequent lottery.

- b.
 1. A total of eighteen (18) artist vending and street performance artist zones shall be available on Lincoln Road for allocation of a permit each of the designated calendar quarters; nine (9) of the zones shall be designated for the category of artist vendors and nine (9) of the zones shall be designated for the category of street performance artist;
 2. A total of twelve (12) artist vending and street performance artist zones shall be available on Ocean Drive for allocation of a permit each of the designated calendar quarters; nine (9) of the zones shall be designated for the category of artist vendors and three (3) of the zones shall be designated for the category of street performance artist;
 3. A total of six (6) artist vending zones shall be available on the street end of Lincoln Road and the beachwalk for allocation of a permit each of the designated calendar quarters.
 4. A total of six (6) artist vending zones shall be available on the street end of 17th Street and the beachwalk for allocation of a permit each of the designated calendar quarters.
 5. A total of six (6) artist vending zones shall be available on the street end of 18th Street and the beachwalk for allocation of a permit each of the designated calendar quarters.
 6. A total of two (2) artist vending zones shall be available on Ocean Drive and 2nd Street.
 7. A total of eight (8) artist vending and street performance artist zones shall be available on Collins Avenue for allocation of a permit each of the designated calendar quarters; six (6) of the zones shall be designated for the category of artist vendors and two (2) of the zones shall be designated for the category of street performance artist;
 8. A total of four (4) artist vending zones shall be available on Washington Avenue for allocation of a permit each of the designated calendar quarters.
- c. If the number of permit applications received by the business tax office is less than the number of available zones for either the artist vendor or the street performance artist category, or if zones remain available in a category after the lottery and any subsequent lottery is concluded for that category, the business tax office shall make available the zone to permit applicants from the other category, but at no time shall the total number of zones permitted on Lincoln Road exceed eighteen (18); the total number of zones permitted on Ocean Drive exceed fourteen (14); the total number of zones permitted on the street end of Lincoln Road and the beachwalk exceed six (6); the total number of zones permitted on the street end at 17th and the beachwalk exceed six (6); the total number of zones permitted on the street end of 18th street and the beachwalk exceed six (6); the total number of zones permitted on Collins Avenue exceed eight (8); and the total number of zones permitted on Washington Avenue exceed four (4). Only one

permit shall be assigned to each zone, except that if the number of permit applications received for one quarter for either artist vendors or street performers exceeds two times the number of available zones for artist vendors or street performers, then the City Manager may assign more than one permit to a zone pursuant to the applicable administrative rules.

d. Zone locations available for permits may change from time to time and additional zones may be added after city commission approval by resolution, as may be deemed necessary by the city manager or his designee.

e. The permitted street performance artist or artist vending zone shall not exceed 36 square feet of space.

(2) Artist Vending and street performance in areas of the City other than those included in section 18-906 (1) shall be available on a daily, first-come first-served basis. No Artist Vendor or street performer shall make efforts to reserve a location in those areas not included in 18-906 (1).

(3) All artist vendors and all street performers, whether or not in a permitted artist vending or street performer zone, shall comply with the following:

a. Artist Vendors and street performers shall engage in their activities on the public rights-of-ways of the City in such a manner that at all times there shall remain open for the passage of pedestrians a space of at least five (5) feet in width, as measured on a line perpendicular to the curb line, between the edge of the sidewalk farthest from the curb and the edge of the Artist Vendor's or street performer's activities. No portion of an Artist Vendor's or performance artist's activities shall be included in measuring the five (5) feet clear pedestrian passageway. No street performer, artist vendor, or table shall be permitted to block any public right-of-way or entrances to buildings or other place of public accommodation.

b. The street performance artist or artist vendor shall not exceed 36 square feet of space for their performance or artist vending. Such space shall be inclusive of:

i. Displays may only be from a table and there may be no more than one (1) display table. The display table may not exceed 50% of the total square footage allotted and the table must be skirted to the ground in solid black, dark blue or dark green fabric. A work area of no more than two feet by two feet shall be permitted, but this work area must also be within the 36 square feet of artist vending space.

ii. Artist vendors shall neatly display all art on the table. No art shall be displayed in any other area or upon any other display that is not a table, Tabletop displays, such as those used to display jewelry, shall be no more than twenty-four (24) inches tall. Any boxes or additional art shall be stored wholly underneath the table, so that the boxes and additional art will not be visible. No art available for sale or on display may be laid on the floor, ground, sidewalk, ground level or raised landscape area, step, or other fixed public improvement. Street performers may not place any

object on the sidewalk, floor, ground, raised landscape area, step or other fixed public improvement that can pose a tripping hazard.

iii. Push carts, mobile display racks and stands are not permitted.

iv. No lounge chairs may be used. No more than two (2) chairs shall be permitted, but the two chairs shall not be placed in a manner that exceeds the total square footage allotted for the artist vending and street performance.

v. Sunshades and tents are prohibited. Artist Vendors and street performers may have one (1) traditional sidewalk cafe type umbrella of no greater size than 6 feet by 6 feet square or nine (9) feet in diameter, with a maximum height of no greater than 8 feet at the center, or a minimum height of less than 6 feet and 8 inches at the lowest edge, and supported by a single pole. The umbrella shall be easily portable when closed and made of non-shiny woven fabric of solid dark blue, dark green, or dark red color only.

vi. No artist vendor or street performer shall allow the table or any item relating to the artist vending or street performance activity to lean against or hang from any building, structure, tree or other plant.

vii. The table shall be removed from city property daily, and the artist vendor and street performer shall clean the area and deposit trash in proper receptacles.

viii. No table shall be located within twenty-four (24) inches of the curb line of any sidewalk.

ix. Sprinkler inlets, standpipe inlets (both wet and dry) are to be kept clear for five (5) feet on each side, measured from the outer edge of standpipe bank from the building line to the sidewalk edge.

x. No table shall be within five (5) feet from the outer edge of any entrance to any building including, but not limited to, doors, driveways, emergency exits measured in each direction parallel to the building line and thence at a 90 -degree angle to the curb.

xi. No table shall be five (5) feet from a fire escape.

xii. No table shall be on any sidewalk adjacent to curb which has been duly designated as a bus zone, passenger loading zone, commercial loading zone or valet ramp.

xiii. No table shall be within five (5) feet of any crosswalk or ADA ramp.

xiv. No table shall be within five (5) feet of the display of any other street artist, unless otherwise provided for in this Article.

xv. Tables shall have a five (5) feet sidewalk clearance from a fire hydrant.

c. No street performance artist or artist vendor shall create a fire hazard or connect to any electric outlets or power sources. The street performance artist or artist vendor must provide their own power sources, if any is required. No generators, car, truck, motorcycle, or boat batteries or any other power sources deemed hazardous to the public health, safety or welfare by a police or code officer shall be permitted. Extension cords are prohibited.

d. No street performance artist or artist vendor shall engage in the application of tattoos or body piercing, nor shall use fire or an animal as part of his/her act while on public property, nor engage in the use of spray paint/airbrush equipment.

e. No food or drink, whether made by a certificate or permit holder or otherwise shall be displayed or offered for sale, or sold through the street performance artist or artist vendor.

f. No street performer or artist vendor shall interfere with a motorist, either regarding the passage of a vehicle or the sight of its driver.

g. No artist vendor or street performer shall keep any animal in the permit area except for service animals.

h. No Artist Vendor shall sell, offer for sale, or solicit offers to purchase, from any vehicle.

i. No street performer, street performance or artist vendor may create noise that violates the City noise ordinance.

j. A street performer or artist vendor may not interfere with the passage of the public through a public area. If a street performer or artist vendor attracts a crowd sufficient to obstruct the public way, a police officer or code officer may disperse the crowd that is creating the obstruction. The police officer or code officer may ask the street performer or artist vendor to temporarily suspend a street performance or artist vending activity or leave the location when that action is necessary to protect the public safety or public order.

k. No street performer or artist vendor may include obscenity in a street performance or artist vending activity.

- l. No street performer or artist vendor shall engage in physical or verbal harassment or coercion.
 - m. The street performer and artist vendor shall maintain their performance or vending area free of trash and debris, including within a radius of 15 feet of the performance or vending area, and deposit trash and debris in proper receptacles.
 - n. The certificate holder shall be limited to one sign which shall be no greater than 8.5 inches by 11 inches. Said sign shall be located on or attached to the table. The certificate holder's name shall be legibly displayed on such sign.
 - o. The certificate holder shall not block a sidewalk, street, bikepath or restricted lane for any purpose, including loading or unloading their equipment.
- (4) The city manager or his designee may cause the immediate removal or relocation of all or parts of the art and/or equipment associated with a certified artist vendor or street performer in emergency situations or for safety considerations.
- a. Upon the issuance of a hurricane warning by the county, the certified artist vendor or street performer shall forthwith cease operation and remove all items associated with the art vending or street performance from the public right-of-way. The issuance of such a hurricane warning shall constitute an emergency situation as referenced in this division. As additional means of enforcement, the city may remove any equipment and/or merchandise found on public property two hours after the issuance of a hurricane warning. Any and all costs incurred by the city for removal and/or storage of art vending or street performance equipment and/or merchandise shall be the responsibility of the certified artist vendor or street performer. The city is not responsible for any damages or loss of equipment or merchandise which is lawfully confiscated.
 - b. If the zone assigned for a street performance artist or artist vending through a permit, or an area used by a street performance artist or artist vendor without a permit, is needed for a special event, municipal repairs or other city business, or relocation or suspension is otherwise in the best interest of the public, the city manager or designee may temporarily or permanently relocate the street performance artist or artist vendor to a different zone or location, or temporarily suspend (if no alternative is available) the street performance or artist vending activity whether permitted or not.

(6) The city manager or designee shall develop and impose administrative rules pertaining to an artist vending or street performer permit including, but not limited to, rules regarding abandonment of permit zones. All permittees shall comply with the administrative rules; failure to do so shall result in the application of fines and penalties as described in section 18-910 of this article.

Sec. 18-907. Indemnification.

All certificate and permit holders shall agree to defend, indemnify and hold harmless the city and its officers, agents and employees from any suit, actions on claims arising out of

or in any way connected with the activities permitted pursuant to this article, except for any claims or liability arising from the negligence or misconduct of the city, its agents, officers or employees.

Sec. 18-908. Hours of operation.

(a) Street performances and artist vending are prohibited between 12:00 a.m. (midnight) and 8:00 a.m. except on Saturday and Sunday when said activities are prohibited between 2:00 a.m. and 8:00 a.m.

(b) All tables, displays, signs and inventory used shall be removed no later than 30 minutes after the time period in 18-908(a) has expired.

Sec. 18-909. Disclaimer, display, and expiration permit or certificate.

(a) Disclaimer. On each certificate the following words shall appear: The issuance of this certificate does not constitute an endorsement by the City of Miami Beach of articles sold pursuant to the terms of this certificate. On each permit the following words shall appear: The issuance of this permit does not constitute an endorsement by the City of Miami Beach of articles sold pursuant to the terms of this permit.

(b) Display. The city shall issue a certificate to an artist vendor which shall contain a photograph of the certificate holder, contact information and a description of the art that has been certified to be sold by the artist vendor. The certificate shall be prominently worn by the artist vendor at all times when selling or soliciting offers to purchase any art or craft. The city shall issue a permit to an artist vendor or street performance artist for Lincoln Road, Ocean Drive, Collins Avenue, Washington Avenue and the beachwalks, containing a photograph of the permittee, contact information, the permit location and, for artist vendors, a description of the art that is permitted to be sold by the artist vendor. The permit shall be displayed by the permittee at all times when selling or soliciting offers to purchase any art or craft work or while performing.

(c) Expiration. All Artist Vendor certificates shall list the expiration date, which shall be the last day of the fiscal year quarter, or of the fiscal year. All permits shall list the expiration date which shall be no greater than 90 days from the date of issuance.

Sec. 18-910. Enforcement, suspension/revocation of permit or certificate.

(a) Any violation of this article, except a violation for selling goods for which the artist vendor has not been certified or goods that are not made by the artist, or a violation for an artist vendor selling without a permit in a permit area, shall result in the violator being served with a notice of violation subject to the following fines and penalties:

(1) First offense: \$50.00;

(2) Second offense in the previous 12-month period: \$100.00; ineligible for application for permit for one quarter.

(3) Third offense in the previous 12-month period: \$250.00; immediate revocation of permit; ineligible for application for permit for two quarters.

(4) Fourth or subsequent offense in the previous 20-month period: \$500.00; immediate revocation of permit; ineligible for application for permit for one year.

(b) A violation of this article for selling goods for which the artist vendor has not been certified or goods that are not made by the artist, or a violation for an artist vendor selling without a permit in a permit area, shall result in the violator being served with a notice of violation subject to the following fines and penalties:

(1) First offense: \$50.00;

(2) Second offense in the previous 12-month period: \$100.00; the certificate is automatically revoked, and the artist vendor is ineligible for a certificate for two quarters.

(3) Third offense in the previous 18-month period: \$250.00; certificate is automatically revoked, and the artist vendor is ineligible for a certificate for one year.

(4) Fourth offense in the previous 24-month period: \$500.00; certificate is automatically revoked, and the artist vendor is permanently ineligible for a certificate subject to reinstatement after 2 years upon a showing of good cause as determined by the Special Master.

(c) Notwithstanding the above, the city may also direct the artist vendor or street performance artist to immediately cease and desist the activity in violation of this article. Failure to immediately comply with the order to cease and desist the activity in violation of this article shall result in additional fines and may result in suspension or revocation of the street performer or artist vendor permit, or of the artist vendor certificate. Following suspension or revocation of a permit or certificate, upon written request of the permit or certificate holder, the city manager or the manager's designee shall hold a hearing within ten days after receipt of such request, at which time the manager or designee will hear the facts constituting the basis for the modification, suspension or revocation, hear the statements for or against such action by interested persons, and then make a decision affirming, modifying, or reversing the action to be taken with respect to the permit or certificate. Such decision may be announced orally at the hearing, or in writing within ten days after the hearing. Appeals from a decision of the city manager or the manager's designee shall be to the appellate division of the circuit court in accordance with the rules of appellate procedure.

Sec. 18-911. Rights of violators; payment of fine; right to appeal; failure to pay civil fine or to appeal.

(a) A violator who has been served with a notice of violation, shall elect either to:

(1) Pay the civil fine in the manner indicated on the notice; or

(2) Request an administrative hearing before a special master, appointed as provided in section 30-36 by the city commission, to appeal the decision of the code compliance officer which resulted in the issuance of the notice of violation.

- (b) The procedures for appeal shall be as set forth in Code section 102-385.
- (c) The special master may not waive or reduce fines set by this article if a violation is established.
- (d) If the named violator after notice fails to pay the civil fine or timely fails to request an administrative hearing before a special master, the special master shall be informed of such failure by report from the code compliance officer. Failure of the named violator to appeal the decision of the code compliance officer within the prescribed time period shall constitute a waiver of the violator's right to administrative hearing. Failure of the named violator to pay the civil fine shall disqualify the violator for a certificate until the civil fine is paid. A waiver of the right to administrative hearing shall be treated as an admission of the violation, and penalties may be assessed accordingly.
- (e) Any party aggrieved by the decision of a special master may appeal that decision to a court of competent jurisdiction as provided in F.S. § 162.11.

Sec. 18-912. No permit or certificate; penalty.

Engaging in street performance or artist vending on Lincoln Road without a permit; street performance or artist vending on Ocean Drive, Collins Avenue, Washington Avenue, and/or the City's beachwalks from a portable table, without a permit; and/or artist vending without a certificate or in violation of the requirements of Section 18-906, 18-907, 18-908 or 18-909 shall constitute a nuisance and shall be punishable as provided in Section 1-14.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 3. S E V E R A B I L I T Y .

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 4. C O D I F I C A T I O N .

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect the 15th day of November, 2008.

PASSED and ADOPTED this 5th day of November, 2008.

ATTEST:



CITY CLERK

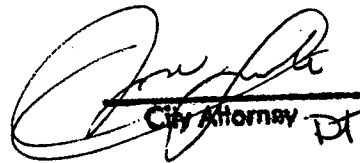
Robert Parcher



MAYOR

Matti Herrera Bower

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**


City Attorney *DT*

11/12/08
Date

OCEAN DRIVE

LEGEND:

A: Artist Vendors

STP: Street Performers

New Locations are highlighted

Note: Only eleven Artist/Vendor locations and three Street Performer locations will be used at one time.

200 Block of Ocean Drive	
A-1	Entrance to Marjory Stoneman Douglas Park
A-2	Entrance to Marjory Stoneman Douglas Park

600 Block of Ocean Drive	
A-3	Entrance to Lummus Park North Side
A-4	Entrance to Lummus Park North Side

700 Block of Ocean Drive	
A-5 / STP-1	Next to the Non-Profit Vendor which is located on Entrance to Lummus Park North Side

800 Block of Ocean Drive	
A-6 / STP-2	Entrance to Lummus Park North Side
A-7 / STP-3	Entrance to Lummus Park North Side

1100 Block of Ocean Drive	
A-8 / STP-4	Next to the Non-Profit Vendor which is located on Entrance to Lummus Park North Side

1200 Block of Ocean Drive	
A-9 / STP-5	Entrance to Lummus Park North Side

1300 Block of Ocean Drive	
A-10 / STP-6	Entrance to Lummus Park North Side

1400 Block of Ocean Drive	
A-11	Entrance to Lummus Park South Side
A-12	Entrance to Lummus Park North Side
A-13	South of 1451 Ocean Drive by the Entrance to Lummus Park
A-14	South of 1451 Ocean Drive by the Entrance to Lummus Park

Artist Vendors Street Performers

LINCOLN ROAD

LEGEND

A: Artist Vendors

STP: Street Performers

New Locations are highlighted

Note: Only nine Artist/Vendor locations and nine Street Performer locations will be used at one time.

400 Block of Lincoln Road	
A-1 / STP-1	Between 400 to 408 Lincoln Road
A-2 / STP-2	Between 400 to 408 Lincoln Road
A-3 / STP-3	Between 400 to 408 Lincoln Road

500 Block of Lincoln Road	
STP-4	South of 525 Lincoln Road
STP-5	South of 525 Lincoln Road
STP-6	Between 525 to 551 Lincoln Road
A-4 / STP-7	In front of the Miami Beach Community Church
A-5 / STP-8	In front of the Miami Beach Community Church
A-6 / STP-9	In front of the Miami Beach Community Church
A-7 / STP-10	Between 530 to 546 Lincoln Road
A-8 / STP-11	Between 530 to 546 Lincoln Road
A-9 / STP-12	Between 530 to 546 Lincoln Road

700 Block of Lincoln Road	
A-10 / STP-13	In front of the Water Fountain
A-11 / STP-14	North of the Apple Store
A-12 / STP-15	In front of 744 Lincoln Road closer to Meridian Avenue

800 Block of Lincoln Road	
A-13 / STP-16	West of 826 Lincoln Road

900 Block of Lincoln Road	
A-14 / STP-17	In front of 901 Lincoln Road
A-15 / STP-18	Between 928 to 932 Lincoln Road

1000 Block of Lincoln Road	
A-16 / STP-19	West of 1001 Lincoln Road
A-17 / STP-20	Between 1029 to 1035 Lincoln Road
A-18 / STP-21	In front of 1045 Lincoln Road
A-19 / STP-22	In front of 1045 Lincoln Road

1100 Block of Lincoln Road	
	(Locations TBD)

WASHINGTON AVENUE

LEGEND:

A: Artist Vendors

STP: Street Performers

New Locations are highlighted

Note: Only four Artist/Vendor locations will be used at one time.

600 Block of Washington Avenue	
A-1	Between 681 & 685 Washington Avenue
A-2	In front of 650 Washington Avenue
A-3	In front of 650 Washington Avenue
A-4	In front of 650 Washington Avenue

800 Block of Washington Avenue	
A-5	Between 859 & 861 Washington Avenue

900 Block of Washington Avenue	
A-6	North of 955 Washington Avenue

1000 Block of Washington Avenue	
A-7	In front of 1035 Washington Avenue
A-8	In front of 1035 Washington Avenue
A-9	In front of 1065 Washington Ave on Washington Avenue

1600 Block of Washington Avenue	
A-10	In front of 1651 Washington Avenue
A-11	In front of 1651 Washington Avenue
A-12	East side of 401 Lincoln Road on Washington
A-13	East side of 401 Lincoln Road on Washington

COLLINS AVE

LEGEND

A: Artist Vendors

STP: Street Performers

New Locations are highlighted

Note: Only six Artist/Vendor locations and two Street Performer locations will be used at one time.

200 Block of Collins Avenue

A-1	In front of 130 3rd Street
A-2	In front of 130 3rd Street

300 Block of Collins Avenue

A-3	In front of 302 Collins Avenue
A-4	In front of 302 Collins Avenue

400 Block of Collins Avenue

A-5	North of 428 Collins Avenue
A-6	North of 428 Collins Avenue
A-7	In front of 446 Collins Avenue
A-8	In front of 446 Collins Avenue

1500 Block of Collins Avenue

A-9	South side of 1501 Collins Avenue
A-10	South side of 1501 Collins Avenue
A-11 / STP-1	In front of 1545 Collins Avenue
A-12 / STP-2	Loews Hotel South side
A-13 / STP-3	In front of The Anchor Shops
A-14 / STP-4	In front of The Anchor Shops
A-15 / STP-5	In front of The Anchor Shops
A-16 / STP-6	In front of The Anchor Shops
A-17 / STP-7	In front of The Anchor Shops

1600 Block of Collins Avenue

A-18	Loews Hotel North side
A-19	In front of 1621 Collins Avenue
A-20	In front of 1610 Collins Avenue
A-21	In front of 1610 Collins Avenue
A-22	Between the Bus stop & 1626 Collins Avenue
A-23	Between the Bus stop & 1626 Collins Avenue

BEACHWALKS

Note:

A: Artist Vendors

STP: Street Performers

New Locations are highlighted

Beach Walk at 100 Lincoln Road

A-1	Entrance to the beach
A-2	Entrance to the beach
A-3	Entrance to the beach
A-4	Entrance to the beach
A-5	Entrance to the beach
A-6	Entrance to the beach

17th Street and the Beach Walk

A-7	Entrance to the beach
A-8	Entrance to the beach
A-9	Entrance to the beach
A-10	Entrance to the beach
A-11	Entrance to the beach
A-12	Entrance to the beach

18th Street and the Beach Walk

A-13	Entrance to the beach
A-14	Entrance to the beach
A-15	Entrance to the beach
A-16	Entrance to the beach
A-17	Entrance to the beach
A-18	Entrance to the beach

Condensed Title:**SECOND READING**

An Ordinance Of The Mayor And City Commission Of The City Of Miami Beach, Florida, Amending Chapter 18 Of The Miami Beach City Code Entitled "Businesses," By Amending Article Xv Thereof, Entitled "Street Performers And Art Vendors On Lincoln Road And Ocean Drive," By Amending Section 18-901 Entitled "Definitions"; By Amending Section 18-902, Entitled "Intent Of Article," To Add Collins Avenue, Washington Avenue And The City's Beachwalks To The List Of Locations Where The Provisions Of Article Xv Apply; By Creating Section 18-903, To Be Entitled "Artist Vendor Certificate Required," To Provide Application Requirements, Procedures, Fees, And Regulations For Artist Vendor Certificates For All Artist Vendors In The City And Amending And Renumbering Sections 18-903 Through 18-911 Accordingly; By Amending Section 18-904, Entitled "Permit Application," To Include Collins Avenue, Washington Avenue, And The City's Beachwalks As Locations In The City Where Permits Are Required And Amending Permit Requirements; By Amending Section 18-905, Entitled "Permit Regulations And Prohibitions," To Amend The Provisions Relative To Zone Locations And The Regulations Relative To Artist Vendors And Street Performers; By Amending Section 18-908, Entitled "Disclaimer, Display And Expiration," To Amend The Provisions Relative To Artist Vendor Certificates And Permits; By Amending Section 18-909, Entitled "Enforcement, Suspension/Revocation Of Permit," By Amending The Fines And Penalties For Artist Vendor Permit And Certificate Holders; By Creating Section 18-912, To Be Entitled "No Permit Or Certificate; Penalty," To Provide Penalties For Artist Vendors And Street Performers Without A Permit Or Certificate; Providing For Repealer, Severability, Codification, And An Effective Date.

Key Intended Outcome Supported:

Maintain Miami Beach public areas & rights of way, especially in business districts.

Supporting Data (Surveys, Environmental Scan, etc.): 51% of business in South Beach are satisfied with the fairness and consistency of enforcement of zoning and ordinances by the City of Miami Beach government for businesses; and the fairness/consistency of code enforcement of zoning and ordinances is a key driver of city government open and interested in hearing business concerns.

Issue:

Shall the City Commission approve, on second reading, an ordinance amending Article XV of the City Code to provide for citywide certification of artist vendors, standardize artist vending, provide for additional permits for artist vending and street performances on Lincoln Road and artist vending from a table and street performances on Ocean Drive; and provide for new permits for artist vending from a table or street performances on Collins Avenue, Ocean Drive south of 5th, Washington Avenue and the City's beachwalks?

Item Summary/Recommendation:**FIRST READING**

On April 11, 2007, an ordinance establishing artist vending/performer zones on Lincoln Road was adopted by the City Commission, providing for permits for artist vending/street performances. On December 12, 2007, the ordinance was amended to provide for artist vending from tables and street performer zones on Ocean Drive. The current ordinance has assisted in addressing public safety concerns in these busy thoroughfares. Subsequent to the approval of the December amendment, artist vendors began congregating in other, nearby areas, resulting in frequent complaints to our code compliance division regarding vendors blocking driveways and sidewalks, creating gridlock on certain areas of our beachwalk, and that artists are selling products that do not appear to be made by the artist. While there is an internal process to review art produced by artists that applied for permits, there is no process to confirm the same for all other artist vendors. While the sale of products made by artists is constitutionally protected, the sale of pre-manufactured products or products made by anyone other than the artist is not. We have also found that street performers that are provided locations on Ocean Drive use these locations less frequently, as Lincoln Road tends to be better suited for the performances. On July 21, 2008, the Mayor hosted a meeting for interested artist vendors and street performers. The meeting was intended to solicit input and feedback on additional amendments to the artist vendor/street performer ordinance. In particular, feedback was requested on a proposal to provide for citywide "certification" of all artist vendors, as a mechanism to ensure that they were selling art they produced. A similar program has existed successfully in San Francisco for many years. Artist vendors and street performers provided comments on the lottery process, the sites currently available, potential new sites, and suggestions on how to improve the manner in which artist vending occurs. A subsequent artist vendor meeting occurred prior to the first reading.

The proposed amendment includes, among other things:

- Implementation of a citywide certificate process for all artist vendors to certify that that art that the vendor proposes to sell in the City is art made/produced by the artist. This process includes application and certificate fees.
- Identifies additional areas in the City where permits are required for purposes of artist vending and street performances. These additional areas include Ocean Drive from Southpointe Drive to 5th street; Collins Avenue from Southpointe Drive to 24th street; Washington Avenue from Southpointe Drive to Dade Boulevard; City beachwalks (defined to include baywalks, boardwalks, etc.); Creates new artist vending and street performer zones in these new permit areas, and expands artist vending and street performer zones in existing permit areas on (Lincoln Road and Ocean Drive from 5th to 15th streets).
- Allows for new zones to be added by Commission resolution.
- Makes minor modifications to the lottery process for zone distribution to allow greater flexibility for the artists and performers
- Develops citywide standards for artist vending and street performer areas (e.g. number of tables, umbrellas, etc.)

- Conforms the penalty language in the artist vendor/street performer ordinance to the penalty language in the non-profit vending ordinance.

At the first reading, the ordinance was approved with the following amendments and comments:

- increase penalty provisions for any certified vendor who sells art that has not been certified or they did not make;
- photos to be taken of items certified for reference by code staff;
- increase penalty provisions for artist vendors that are caught, a second time, selling in a regulated area without a permit;
- Staff to solicit input from the business associations;
- Maximum of 48 positions; reduce beachwalks to six instead of eight;
- Artists vendors must provide sales tax registration number at the time of certification, and acknowledge that they agree to pay.

Additional adjustments have been made to the ordinance since first reading to respond to suggestions from artist vendors; they are non-substantive.

Amending Article XV provides a mechanism for artist vendors/street performers to vend/perform in certain areas of the City, while ensuring the public welfare and safety.

Advisory Board Recommendation:

The Neighborhoods/Community Affairs Committee reviewed the proposed amendments at their meeting on 9/24/08.

Financial Information:

Source of Funds:		Amount	Account
	1	N/A	
OBPI	Total		

Financial Impact Summary: The proposed amendment will result in certification application fees and certification fees for all potential artist vendors, as well as additional permit application fees collected by the City for permits in new vending/performance zones; value unknown.

City Clerk's Office Legislative Tracking: Greg Tindle, Code Compliance Division Director

Sign-Offs:

Department Director	Assistant City Manager	City Manager
		



MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: November 5, 2008

SECOND READING
PUBLIC HEARING

SUBJECT: **AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 18 OF THE MIAMI BEACH CITY CODE ENTITLED "BUSINESSES," BY AMENDING ARTICLE XV THEREOF, ENTITLED "STREET PERFORMERS AND ART VENDORS ON LINCOLN ROAD AND OCEAN DRIVE," BY AMENDING SECTION 18-901 ENTITLED "DEFINITIONS"; BY AMENDING SECTION 18-902, ENTITLED "INTENT OF ARTICLE," TO ADD COLLINS AVENUE, WASHINGTON AVENUE AND THE CITY'S BEACHWALKS TO THE LIST OF LOCATIONS WHERE THE PROVISIONS OF ARTICLE XV APPLY; BY CREATING SECTION 18-903, TO BE ENTITLED "ARTIST VENDOR CERTIFICATE REQUIRED," TO PROVIDE APPLICATION REQUIREMENTS, PROCEDURES, FEES, AND REGULATIONS FOR ARTIST VENDOR CERTIFICATES FOR ALL ARTIST VENDORS IN THE CITY AND AMENDING AND RENUMBERING SECTIONS 18-903 THROUGH 18-911 ACCORDINGLY; BY AMENDING SECTION 18-904, ENTITLED "PERMIT APPLICATION," TO INCLUDE COLLINS AVENUE, WASHINGTON AVENUE, AND THE CITY'S BEACHWALKS AS LOCATIONS IN THE CITY WHERE PERMITS ARE REQUIRED AND AMENDING PERMIT REQUIREMENTS; BY AMENDING SECTION 18-905, ENTITLED "PERMIT REGULATIONS AND PROHIBITIONS," TO AMEND THE PROVISIONS RELATIVE TO ZONE LOCATIONS AND THE REGULATIONS RELATIVE TO ARTIST VENDORS AND STREET PERFORMERS; BY AMENDING SECTION 18-908, ENTITLED "DISCLAIMER, DISPLAY AND EXPIRATION," TO AMEND THE PROVISIONS RELATIVE TO ARTIST VENDOR CERTIFICATES AND PERMITS; BY AMENDING SECTION 18-909, ENTITLED "ENFORCEMENT, SUSPENSION/REVOCAION OF PERMIT," BY AMENDING THE FINES AND PENALTIES FOR ARTIST VENDOR PERMIT AND CERTIFICATE HOLDERS; BY CREATING SECTION 18-912, TO BE ENTITLED "NO PERMIT OR CERTIFICATE; PENALTY," TO PROVIDE PENALTIES FOR ARTIST VENDORS AND STREET PERFORMERS WITHOUT A PERMIT OR CERTIFICATE; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

ADMINISTRATION RECOMMENDATION

Adopt the ordinance on second reading.

ANALYSIS

On April 11, 2007, an ordinance establishing artist vending/performer zones on Lincoln Road was adopted by the City Commission, providing for permits for artist vending/street performances, and further regulating the manner in which artist vending and street performances could occur on Lincoln Road.

Artist vending and street performances could occur without a permit in any other area of the City. On December 12, 2007, the ordinance was amended to address public safety concerns on Ocean Drive by providing for the establishment of artist vending and street performer zones on Ocean Drive, and a permit process such as the process on Lincoln Road. Artist Vending and Street Performances can currently occur in any other area of the City without a permit.

Subsequent to the approval of the December amendment, artist vendors began establishing themselves in other, nearby areas, resulting in frequent complaints regarding blocked driveways and sidewalks, and gridlock on sidewalks and certain areas of our beachwalk. In addition to public safety concerns resulting from the proliferation of vendors and their concentration in very limited locations, the myriad of different, random and conflicting displays creates a sense of visual blight in areas of the City heavily frequented by residents and visitors. Complaints also included that artists are selling products that do not appear to be made by the artist.

While there is an internal process to review art produced by artists that apply for permits to vend on Lincoln Road and Ocean Drive, there is no process to confirm that artist vendors in areas without permits are selling products they have made. While the sale of products made by artists is constitutionally protected, the sale of pre-manufactured products or products made by anyone other than the artist is considered commercial vending and is not permitted in the City's rights-of-ways. We have also found that street performers that are provided locations on Ocean Drive use these locations less frequently, as Lincoln Road tends to be better suited for their art form.

This past May, the Mayor and City staff had an opportunity to see, first-hand, how San Francisco manages its well-known street artist program. Since 1972, the Street Artists Program, under the direction of the San Francisco Arts Commission, has licensed artists to sell their work on the city's streets. Today, about 400 artists participate the program. The artists must demonstrate to a screening committee appointed by the Mayor that they make the artwork they sell. In return, they receive certificates licensing them to sell their work in the spaces designated by the Board of Supervisors. Lotteries are held every morning for vending locations. In speaking with artist vendors that participate in the program, it appeared to be well-received by the artists.

On July 21, 2008, Mayor Bower hosted a meeting for interested artist vendors and street performers. The meeting was intended to solicit input and feedback on additional amendments to the artist vendor/street performer ordinance. In particular, feedback was requested on a proposal to provide for citywide certification of all artist vendors, as a mechanism to ensure that they were selling art they produced, similar to the program that has existed successfully in San Francisco. Artist vendors and street performers provided comments on the lottery process, the sites currently available, potential new sites, and suggestions on how to improve the manner in which artist vending occurs. A follow-up meeting was held on October 3, 2008 with artist vendors to explain the proposed ordinance.

In addition, city staff has met and/or discussed the proposed amendments to the ordinance with representatives of local business associations and hotels.

EXISTING ORDINANCE

Currently, the basic elements of Sections 18-901-910 of the City Code are as follows:

- A permit is required for artist vending or street performance on Lincoln Road and for vending from portable tables and street performances on Ocean Drive
 - The permit is valid for 90 days.
 - A set number of permits are available each quarter, consistent with the number of available artist vending/street performance zones
 - If the number of applications for permits exceed the available number of artist vending/street performance zones, a lottery system is used to select applicants to receive the available

permits

- Permits are limited to artists displaying their own creations, and street performers.
- Only one permit can be provided per person in a quarter.
- Artist vending or street performances can only occur in designated locations (zones).
 - On Lincoln Road there are twelve active zones – six for artist vendors and six for street performers; additional zones have been identified and are used on a rotating basis.
 - On Ocean Drive there are six zones – three for artist vendors and three for street performers.
 - These zones may change from time to time based on space availability and safety considerations.
 - Zones are randomly assigned to applicants selected via the lottery
- Specific administrative rules are in place to regulate the size, set up, permitted activities, etc. of the zones.
- There is no permit fee; the City charges an application processing fee (as we do with the non-profit vendors).
- Artist vending and street performances can occur in any other area of the city without a permit. The current code does not provide for how these vending areas and performance areas may be set up, the size of tables, nor does it provide a mechanism for the City to confirm that the art that is being sold was, indeed, created by the artist.

Administrative rules for the Lincoln Road and Ocean Drive permit program were developed and are shared with applicants. The administrative rules provide details on, among other things, how displays may be set up, including the size of tables, types of tablecloths and umbrellas, and maintenance of the vending/performance area.

The City has conducted six lotteries since the passage of the ordinance; the next lottery is scheduled for December 15, 2008 for the next quarter (Jan 1 – Mar 30). Interest in the permit program for Lincoln Road and Ocean Drive has remained consistent, with an average of 42 applications for artist vendors, and 11 applications for street performers. The administrative rules allow us to assign one zone to two permit holders for different days depending on the number of applications received. We have always provided two permits for zones for artist vendors; we have never had to issue two permits per zone for street performers since the lottery process began. Provided to you, again for reference, please see Attachment A for a breakdown of applications received for artist vending and street performers since the ordinance was first approved in April 2007 for Lincoln Road, and amended in December 2007 for Ocean Drive.

A special Code Compliance detail is responsible for monitoring zone usage in the permit areas (Lincoln Road and Ocean Drive), as well as usage in the non-permit areas (beachwalk, Collins, etc.). While there are particular areas outside of Lincoln Road and Ocean Drive where artist vendors have concentrated, street performers are less concentrated beyond the two permitted areas. This is likely due to the unique nature of street performance that requires a consistent pedestrian flow for effectiveness. However, we have found that many art vendor applicants for the permits will move to certain other locations within the South Beach area if they are not successful in the lottery. The main congregation of artist vendors appears to be on the beachwalk at the streetend of Lincoln Road, and on Collins Avenue in locations stretching from 15th street to approximately 19th street. Attachment B reflects a sampling of the level of activity observed by Code staff.

Sections 18-901-910 of the City Code was drafted after reviewing similar legislation currently in place in other cities, such as New York and San Francisco. Both of these cities regulate street vending through a permit/license process. In addition to these two cities, staff also researched how other cities of comparable size or characteristics (e.g. Atlanta, Key West, Chicago, Boston, Santa Fe, Santa Monica and New Orleans) address this issue. All seven of these cities require a permit, and six of them identify specific areas in the City where this activity is permitted.

PROPOSED ORDINANCE AMENDMENT

It is proposed that Article of the City Code be amended to include the following:

- Implements a citywide certificate process for all artist vendors. This process requires review by a City Committee, currently proposed to be the Fine Arts Board or their subcommittee, in order to certify that that art that the vendor proposes to sell in the City is art made/produced by the artist. This process includes a nonrefundable certificate application fee (\$15) and a certificate fee.
- Identifies additional areas in the City where permits are required for purposes of artist vending and street performances. These additional areas include:
 - Ocean Drive from Southpointe Drive to 5th street
 - Collins Avenue from Southpointe Drive to 24th street
 - Washington Avenue from Southpointe Drive to Dade Boulevard
 - City beachwalks (defined to include baywalks, boardwalks, etc.)
- Creates new artist vending and street performer zones in these new permit areas, and expands artist vending and street performer zones in existing permit areas on (Lincoln Road and Ocean Drive from 5th to 15th streets. NOTE: on Lincoln Road and Collins Avenue, additional zone locations will be identified to allow for rotation of locations)
- Allows for new zones to be added by Commission resolution
- Makes minor modifications to the lottery process for zone distribution to allow greater flexibility for the artists and performers
- Develops citywide standards for artist vending and street performer areas (e.g. number of tables, umbrellas, chairs, etc.)
- Conforms the penalty language in the artist vendor/street performer ordinance to the penalty language in the non-profit vending ordinance.

In all other regards, the process established for the distribution of permits for artist vendors and street performers, including, among other things, the hours and days of operation, the application and general lottery process, and the charging of a permit application fee, shall remain the same as approved for Lincoln Road and Ocean Drive from 5th to 15th street.

This amendment to the ordinance will continue to encourage artist vendors/street performers to engage in their constitutionally protected activities, while ensuring the public welfare and safety.

ADJUSTMENTS/CHANGES FROM FIRST READING

During the first reading of the ordinance the Commission was asked for guidance on the proposed certificate fee. This fee, in addition to a nonrefundable certificate application fee(\$15), would be charged to all artist vendors who complete the certification process, and would enable them to sell their art on city streets. The city would continue to charge a permit application fee (\$15) for artist vendors who wish to sell their art in the permit zones. The process for certification review, as well as the compliance monitoring of this citywide process, is much more extensive than for permits. It had been proposed that the fees for certificates be set as follows: \$50 per quarter and \$175 for a full year. The full year amount was discounted as a mechanism to provide local artist vendors who are likely to vend year-long with an additional discount. The Commission was provided an alternative fee schedule of \$25 every quarter or \$75 for a full year. No definitive guidance was provided to staff, which would establish the proposed fee in the proposed ordinance.

Subsequently, in preparing for the second reading, staff from the Finance Department, Code Compliance Division, City Manager's office and City Attorney's office discussed the certificate fee schedule. In an effort to simplify the process for the issuance of certificates in a manner that coincides with our City fiscal year (as our Business Tax Receipts currently do), the proposed fee schedule affected the ability to issue certificates during any time of the year with an expiration date of September 30, 2008. In the alternative, staff proposes amending the fee schedule for certificates to permit a discount for applicants that apply for more than one quarter at a time, with no discount provided for applicants that only purchase one quarter.

The proposed changes are reflected in Section 18-903 (3) (e) and (f). The discount would be as follows: one quarter – no discount; two quarters – 5% discount; three quarters – 10% discount; four quarters – 15% discount. Staff is also recommending the reduced certificate fee schedule. As such, the proposed fees would be as follows: \$25 for a one quarter certificate; \$47.50 for a two-quarter certificate; \$67.50 for a three-quarter certificate; and \$85.00 for a full year certificate. Regardless of the number of quarters purchased, all certificates will expire on September 30 of each year. The administrative rules for the artist vendor certification process provide for applicants that are certified to choose whether to complete the quarter they are in, or whether to defer the effective date of their certificate until the next available quarter

As previously stated, this certificate fee is in addition to the \$15 certificate application fee. The nonrefundable application fee is only charged at the initial time of certification review, and is not charged when a certificate is renewed timely (paid within ten business days of the expiration of the certificate). However, this application fee would be charged any time that the applicant wishes to certify additional art products, or in the event that the renewal is not timely. Section 18-903(3)(g) has been amended since the first reading to further clarify this process.

Section 18-903(4) has been added to reference the administrative rules that have been developed for this program.

Section 18-906(3)(i), (ii) and (iv) have been amended to incorporate suggestions made by artist vendors during the last artist vendor meeting. Specifically, it clarifies that:

- There may only be one table from which arts/crafts may be displayed.
- In addition to the display table, artists will be permitted to have a work area of no more than two feet by two feet to make their arts/crafts. This work area must fit within the 36 square feet of artist vending area.
- For artist vendors with canvasses, they will be permitted no more than two easels only if they also set up a table. These easels must be placed behind the table and within the 36 square feet of artist vending space.
- Clarifies that tabletop displays, such as for jewelry, are permitted, as long as they are not more than 24 inches tall.
- Allows market umbrellas up to 9' in diameter to be used (current ordinance limited to 6' in diameter for round umbrellas).

Section 18-906 (1) (b) (2) has been amended to reflect an adjustment in the distribution between artist vendors and street performers new zones on Ocean Drive from 5th to 15th between. In response to requests made by street performers relating to their preference for Lincoln Road zones for their performances, we are not increasing the number of street performer zones on Ocean Drive. Instead, we are adding an additional street performer zone on Lincoln Road, decreasing the artist vendor zones by one on Lincoln Road, but adding one additional artist vendor zone on Ocean Drive. The total number of zones for Ocean Drive from 5th to 15th and for Lincoln Road do not change since first reading, only the distribution of zones. As currently proposed, there are a total of 18 zones on Lincoln Road (nine for artist vendors and nine for street performers) and a total of 12 zones on Ocean Drive between 5th and 15th (nine for artist vendors and three for performers).

Additionally, the commission approved the ordinance on first reading with the following amendments to be incorporated for the second reading:

- 1) Photos to be taken of the art products that are certified by the review committee; a copy to be provided to the artist vendor to carry with them at all times, and a copy to be provided to code compliance staff for monitoring purposes. This requirement is incorporated in the administrative rules.
- 2) Require all artist vendor certificate applicants to provide a copy of their Florida Sales Tax Receipt Registration at the time of application for an artist vendor certificate. Section 18-903 (1) (b) has been amended to reflect this requirement. This requirement is also incorporated in the administrative rules for the artist vendor certificate process.

3) Revise the penalty provisions to provide stricter penalties for an artist vendor with a certificate that sells products they did not make or were certified to sell, and for artist vendors that sell in a permit zone without a permit. Section 18-910 has been amended to provide for the following:

- a) A first violation remains with a fine of \$50. This would constitute the equivalent of a "warning" in that, while it includes a fine, there is no penalty relating to permits or certifications,
- b) The second violation results in a fine of \$100. Additionally: for permit holders, they are not able to apply for a permit for a quarter; for artist vendors who receive a second violation for selling products for which they are not certified to sell or not made by the artist, the penalty is the revocation of the certificate and the inability to apply for a new certificate for two quarters. For a second violation for selling without a permit in a permit zone, the penalty shall be the revocation of the certificate and the inability to apply for a new certificate for two quarters.

4) It was requested that staff solicit additional feedback from local business associations and hotels. Staff has attended meetings, or discussed the proposed ordinance, with the Ocean Drive Association, Washington Avenue Neighborhood Association and the Lincoln Road Marketing Association. The information has also been shared with representatives of the hotel industry.

5) Adjust the number of permitted zones in the beachwalk street ends to no more than six. Section 18-906 (1) (b) (3) – (5) has been amended to reflect this change. It should be noted that the Lincoln Road beachwalk street end has customarily accommodated more than six, and even up to twelve, vendors. We believe that eight vendors at that particular location presents no issue in terms of pedestrian flow and, with the new set up requirements, should not create an aesthetic issue for beachgoers.

PREVIOUS COMMITTEE REVIEW

The proposed amendment to the artist vending and street performer ordinance was discussed at the Neighborhoods/Community Affairs Committee meeting held on September 24, 2008. In addition, discussions and/or meetings have occurred with representatives from business associations and hotels. Informational meetings for artist vendors and street performers were held in July and prior to the first reading.

FISCAL IMPACT SUMMARY

The proposed amendments to Sections 18-901-912 of the City Code will result in the collection of application fees and certificate fees relating to the new artist vendor certification process. Additional permit application fees are likely to be collected as a result of new locations available with permits. The value of these fees is unknown and depends on the number of applicants each quarter. These fees offset the costs associated with administering the program.

CONCLUSION

The City has endeavored to develop amendments to Sections 18-901-910 of the City Code that recognize the constitutional rights of our artist vendors and street performance artists, while ensuring the public welfare and safety. The proposed ordinance amendments provide a mechanism for artist vending and street performances to occur in the City in a manner that addresses these concerns. The City Administration recommends that the City Commission approve the proposed amendments.

JMG/HMF

Attachment A

**SUMMARY OF ARTIST VENDOR/STREET PERFORMER
LOTTERIES, TO DATE**

**City of Miami Beach
Street Performers & Artist Vendors
Lottery Applicants**

Year	Quarter	Artists Vendors	Street Performers	Total Applicants
2008	Oct-Dec	44	14	58
2008	Jul-Sep	32	13	45
2008	Apr-Jun	37	12	49
2008	Jan-Mar	51	13	64
2007	Oct-Dec	41	5	46
2007	Jul-Sep	49	10	59
Average:		42	11	54

Non "Permitted" areas checked for Artists and Street Performers

AUGUST

DATE	DAY	1500 Block of Collins Avenue	1600 Block of Collins Avenue	1700 Block of Collins Avenue	100 Block of 15TH Street	200 Block of Ocean Drive	Lincoln Road Beach Walk	Totals
8/1/08	Friday	7	2	0	4	1	10	24
8/2/08	Saturday	10	1	0	8	1	11	31
8/3/08	Sunday	13	5	0	5	1	6	30
8/4/08	Monday	7	2	N/A	2	0	0	11
8/5/08	Tuesday	10	2	0	2	1	4	19
8/6/08	Wednesday	9	2	0	0	0	5	16
8/7/08	Thursday	10	2	0	3	1	N/A	16
8/8/08	Friday	13	5	0	3	1	5	27
8/9/08	Saturday	6	4	0	4	1	10	25
8/10/08	Sunday	5	8	N/A	4	2	4	23
8/11/08	Monday	5	3	N/A	4	2	4	18
8/12/08	Tuesday	4	6	0	0	1	4	15
8/13/08	Wednesday	5	7	N/A	1	1	6	20
8/14/08	Thursday	4	3	0	0	0	0	7
8/15/08	Friday	5	5	2	6	1	11	30
8/16/08	Saturday	6	5	2	7	N/A	13	33
8/17/08	Sunday	5	6	N/A	1	1	3	16
8/18/08	Monday	Office was closed early due to the Hurricane.						
8/19/08	Tuesday	Office was closed due to the Hurricane.						
8/20/08	Wednesday	8	1	0	3	1	5	18
8/21/08	Thursday	9	2	0	5	1	8	25
8/22/08	Friday	5	3	0	1	1	6	16
8/23/08	Saturday	5	3	0	3	1	N/A	12
8/24/08	Sunday	4	5	2	5	1	6	23
8/25/08	Monday	7	2	N/A	4	1	8	22
8/26/08	Tuesday	4	2	0	1	1	6	14
8/27/08	Wednesday	4	2	0	0	1	5	12
8/28/08	Thursday	5	4	0	4	1	10	24
8/29/08	Friday	7	4	3	7	1	7	29
8/30/08	Saturday	8	3	3	3	0	2	19
8/31/08	Sunday	5	2	N/A	5	1	1	14
Average		6.7	3.5	0.5	3.3	0.9	5.9	20.3

SEPTEMBER

DATE	DAY	1500 Block of Collins Avenue	1600 Block of Collins Avenue	1700 Block of Collins Avenue	100 Block of 15TH Street	200 Block of Ocean Drive	Lincoln Road Beach Walk	Totals
9/1/08	Monday	Labor Day - No Checks						
9/2/08	Tuesday	5	2	0	1	1	6	15
9/3/08	Wednesday	6	1	0	0	1	4	12
9/4/08	Thursday	5	2	0	3	1	5	16
9/5/08	Friday	6	0	0	4	1	7	18
9/6/08	Saturday	6	2	0	4	1	9	22
9/7/08	Sunday	5	1	0	5	1	6	18
9/8/08	Monday	5	0	0	2	0	0	7
9/9/08	Tuesday	2	2	0	0	0	0	4
9/10/08	Wednesday	Training - No Checks						
9/11/08	Thursday	8	2	0	2	1	5	18
9/12/08	Friday	5	3	0	5	1	5	19
9/13/08	Saturday	6	2	0	6	1	12	27
9/14/08	Sunday	4	4	0	3	1	8	20
9/15/08	Monday	5	2	0	1	1	6	15
9/16/08	Tuesday	6	0	0	0	1	6	13
9/17/08	Wednesday	5	3	0	1	1	8	18
9/18/08	Thursday	9	2	0	5	1	8	25
9/19/08	Friday	8	2	0	5	1	6	22
9/20/08	Saturday	6	3	0	5	1	12	27
9/21/08	Sunday	N/A	N/A	N/A	N/A	N/A	N/A	
9/22/08	Monday	5	3	0	5	1	5	19
9/23/08	Tuesday	6	2	0	3	1	10	22
9/24/08	Wednesday	N/A	N/A	N/A	N/A	N/A	0	0
9/25/08	Thursday	3	3	0	3	1	4	14
9/26/08	Friday	5	2	0	2	0	7	16
9/27/08	Saturday	4	2	0	5	1	6	18
9/28/08	Sunday	6	3	0	7	1	N/A	17
9/29/08	Monday	5	0	0	0	1	0	6
9/30/08	Tuesday	3	0	0	0	1	0	4
Average		5.3	1.8	0.0	3.0	0.9	5.6	16.0

ATTACHMENT C

ARTIST VENDOR

	CURRENT	PROPOSED	ADDITIONAL
Lincoln Road*	6	9	3
Ocean Drive 5-15	3	9	6
Ocean Drive 0-5	0	2	2
Collins Ave**	0	6	6
Washington Ave	0	4	4
Beachwalk/Lincoln	0	6	6
Beachwalk/17	0	6	6
Beachwalk/18	0	6	6
Total	9	48	39

STREET PERFORMER

	CURRENT	PROPOSED	ADDITIONAL
	6	9	3
	3	3	0
	0	0	0
	0	2	2
	0	0	0
	0	0	0
	0	0	0
	0	0	0
	0	0	0
	9	14	5

* This figure anticipates locations on the 1100 block once construction is complete; more than 18 zones will be identified to allow for rotation of zones.
 ** Additional locations will be identified to provide for rotation as occurs on Lincoln Rd.

Note: Currently two permits are issued per zone when the number of permit applications exceeds twice the number of available zones.

TOTALS - ALL

Current	18
Proposed	62
Difference (+)	44



MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: November 5, 2008

SUBJECT: Supplemental information – Ordinance Amending Chapter 18 of the Miami Beach City Code Entitled Businesses, by amending Article XV thereof, entitled "Street Performers and Artist Vendors"

The attached is provided as additional information relating to agenda item R5A:

- Revised ordinance reflecting clarification on definitions, and corrections of scrivener's errors;
- Listing of potential artist vending/street performer zones for the areas requiring permits (note: permits will only be issued for the number of zones approved by ordinance; additional zones are identified to allow, when possible, rotation of zones; potential zones are identified as being appropriate for either artist vendor or street performers, or both).

ATTACHMENTS

Agenda Item R5A
Date 11-5-08



MIAMIBEACH

CITY OF MIAMI BEACH

NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY given that second readings and public hearings will be held by the Mayor and City Commission of the City of Miami Beach, Florida, in the Commission Chambers, 3rd floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **Wednesday, November 5, 2008**, to consider the following:

1:15 p.m.

An Ordinance Amending Article VI Of The City Code, Entitled "Naming Of Public Facilities And Establishment Of Monuments Or Memorials;" Amending Section 82-501(c) Thereof, Entitled "Generally;" Amending Section 82-502 Thereof, Entitled "Definitions;" And Amending Section 82-503 Thereof, Entitled "Naming Of Public Facilities;" Said Amendments Providing And Establishing Criteria For The Co-Naming Of Streets In The City Of Miami Beach In Honor Of Miami Beach Police Officers Who Died Or Were Killed In The Line Of Duty.

Inquiries may be directed to the Police Department at (305) 673-7925.

1:20 p.m.

An Ordinance Amending Chapter 18 Of The Miami Beach City Code Entitled "Businesses," By Amending Article XV Thereof, Entitled "Street Performers And Art Vendors On Lincoln Road And Ocean Drive," By Amending Section 18-901 Entitled "Definitions;" By Amending Section 18-902, Entitled "Intent Of Article," To Add Collins Avenue, Washington Avenue And The City's Beachwalks To The List Of Locations Where The Provisions Of Article XV Apply; By Creating Section 18-903, To Be Entitled "Artist Vendor Certificate Required," To Provide Application Requirements, Procedures, Fees, And Regulations For Artist Vendor Certificates For All Artist Vendors In The City And Amending And Renumbering Sections 18-903 Through 18-911 Accordingly; By Amending Section 18-904, Entitled "Permit Application," To Include Collins Avenue, Washington Avenue, And The City's Beachwalks As Locations In The City Where Permits Are Required And Amending Permit Requirements; By Amending Section 18-905 Entitled "Permit Regulations And Prohibitions" To Amend The Provisions Relative To Zone Locations And The Regulations Relative To Artist Vendors And Street Performers; By Amending Section 18-908, Entitled "Disclaimer, Display And Expiration," To Amend The Provisions Relative To Artist Vendor Certificates And Permits; By Amending Section 18-909 Entitled "Enforcement, Suspension/Revocation Of Permit;" By Creating Section 18-912, To Be Entitled "No Permit Or Certificate; Penalty," To Provide Penalties For Artist Vendors And Street Performers Without A Permit Or Certificate.

Inquiries may be directed to the City Manager's Office at (305) 673-7010.

INTERESTED PARTIES are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. Copies of these ordinances are available for public inspection during normal business hours in the City Clerk's Office, 1700 Convention Center Drive, 1st Floor, City Hall, and Miami Beach, Florida 33139. This meeting may be continued and under such circumstances additional legal notice would not be provided.

Robert E. Parcher, City Clerk
City of Miami Beach

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that: if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in accessible format, sign language interpreters, information on access for persons with disabilities, and/or any accommodation to review any document or participate in any city-sponsored proceeding, please contact (305) 604-2489 (voice), (305) 673-7218 (TTY) five days in advance to initiate your request. TTY users may also call 711 (Florida Relay Service).

Ad #612

CITY OF MIAMI BEACH NOTICE OF PUBLIC HEARING

***Replacement Notice For Ordinance Amending City Code Chapter 18 ***

The Ordinance Title Below Replaces The Ordinance Title Printed In The Miami Herald Neighbors On Thursday, October 23, 2008 For A Time-Certain At 1:20 p.m. (Ad #512):

NOTICE IS HEREBY given that a second reading and public hearing will be held by the Mayor and City Commission of the City of Miami Beach, Florida, in the Commission Chambers, 3rd floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **Wednesday, November 5, 2008, at 1:20 p.m.** To Consider An Ordinance Of The Mayor And City Commission Of The City Of Miami Beach, Florida, Amending Chapter 18 Of The Miami Beach City Code Entitled "Businesses," By Amending Article XV Thereof, Entitled "Street Performers And Art Vendors On Lincoln Road And Ocean Drive," By Amending Section 18-901 Entitled "Definitions"; By Amending Section 18-902, Entitled "Intent Of Article," To Add Collins Avenue, Washington Avenue And The City's Beachwalks To The List Of Locations Where The Provisions Of Article XV Apply; By Creating Section 18-903, To Be Entitled "Artist Vendor Certificate Required," To Provide Application Requirements, Procedures, Fees, And Regulations For Artist Vendor Certificates For All Artist Vendors In The City And Amending And Renumbering Sections 18-903 Through 18-911 Accordingly; By Amending Section 18-904, Entitled "Permit Application," To Include Collins Avenue, Washington Avenue, And The City's Beachwalks As Locations In The City Where Permits Are Required And Amending Permit Requirements; By Amending Section 18-905, Entitled "Permit Regulations And Prohibitions," To Amend The Provisions Relative To Zone Locations And The Regulations Relative To Artist Vendors And Street Performers; By Amending Section 18-908, Entitled "Disclaimer, Display And Expiration," To Amend The Provisions Relative To Artist Vendor Certificates And Permits; By Amending Section 18-909, Entitled "Enforcement, Suspension/Revocation Of Permit," By Amending The Fines And Penalties For Artist Vendor Permit And Certificate Holders; By Creating Section 18-912, To Be Entitled "No Permit Or Certificate; Penalty," To Provide Penalties For Artist Vendors And Street Performers Without A Permit Or Certificate.

Inquiries may be directed to the City Manager's Office at (305) 673-7010.

INTERESTED PARTIES are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. Copies of these ordinances are available for public inspection during normal business hours in the City Clerk's Office, 1700 Convention Center Drive, 1st Floor, City Hall, and Miami Beach, Florida 33139. This meeting may be continued and under such circumstances additional legal notice would not be provided.

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City of Miami Beach

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To request this material in accessible format, sign language interpreters, information on access for persons with disabilities, and/or any accommodation to review any document or participate in any city-sponsored proceeding, please contact (305) 604-2489 (voice), (305) 673-7218 (TTY) five days in advance to initiate your request. TTY users may also call 711 (Florida Relay Service).

Ad #514



MIAMI BEACH